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DEMOCRATIC POLICY COMMITTEE **Special Report**

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Democrats Work With Native Americans to Continue to Address Important Issues in the 107th Congress

Democratic Policy Committee
United States Senate
Washington, D.C. 20510-7050

During the second session of the 107th Congress, the Senate will consider the following legislation which is of critical importance to millions of Native Americans: the budget, homeland defense, an economic recovery package, agriculture, energy, welfare, election reform, health care, and housing. Democrats have worked with Native Americans to develop legislative initiatives on all of these issues which address the needs of Indian families.

Background

Special Relationships of Indian Tribes with the U.S. Government

Self-governance. Indian tribes and Alaska Native villages retain powers of self-government and have a unique relationship with the federal government, affirmed by the Constitution, Supreme Court decisions, treaties, federal statutes, and Executive Orders. Federally-recognized tribes possess most powers of government, including the power to make and enforce both civil and criminal laws, establish tribal membership, license and regulate activities on reservation lands, and enact taxation and zoning ordinances.

Entitlement to benefits, services and protections. Federally-recognized tribes are entitled to certain federal benefits, services and protections because of a special trust relationship with the U.S. Government, which has its origins in treaties the United States entered into with Indian nations. Tribal self-determination and self-governance are important concepts in federal Indian policy and are the objectives of major federal legislation. There are many laws which accord tribes the authority to control and operate federally-funded and administered programs.

Recognition. Not all Americans who consider themselves American Indian or Alaska Natives are entitled to federal benefits, services and protections through these programs in the same way. Eligibility flows from the person's membership in a federally-recognized tribe, and not from an individual's ethnic status. A person may be ethnically American Indian or Alaska Native, yet not legally considered an American Indian or Alaska Native.

The Native American Population

Native Americans make up approximately 1.5 percent or 4.1 million of the U.S. population.

Poverty/Employment

- For the 556 federally-recognized tribes in 1999, the poverty level among employed tribal members increased by three percent to 33 percent as compared to the 1997 level of 30 percent. (*Bureau of Indian Affairs*, 1999)

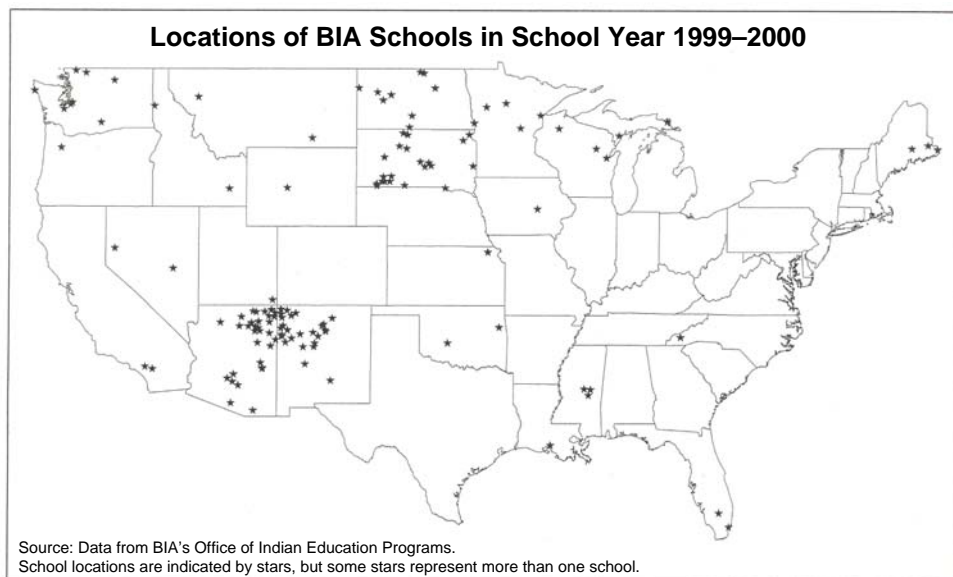
- According to the Bureau of Indian Affairs (BIA) in 1999, the total number of unemployed per percentage of the labor force for all twelve regions serviced by the BIA and self-governance tribes was 43 percent.
- Statistics from the U.S. Census Bureau indicate that the 3-year poverty rate average (1998–2000) for American Indians and Alaska Natives is 25.9 percent.
- The three year (1998–2000) median income for American Indians and Alaska Natives is \$31,799 – nearly \$10,000 lower than the median income for all ethnicities.

Housing

- In tribal areas, 40 percent of homes are overcrowded and have serious physical deficiencies. The comparable national average is 5.9 percent, more than six times lower.
- Sixty-nine percent of Native Americans in tribal areas must “endure severely overcrowded conditions” — in which 18, 20, or even 25 persons are jammed together in small two-bedroom houses. (National American Indian Housing Council, 2002)

Education

- There are approximately 500,000 American Indian and Alaska Native students attending K–12 schools in the United States. (*Education Resource Information Center*, December 12, 2000)
- Of those attending publicly-funded schools, approximately 90 percent attend public schools, 10 percent attend schools operated or funded by the Bureau of Indian Affairs (BIA), and a small number attend private schools. (*Education Resource Information Center*, December 12, 2000)
- According to the Education Department’s Office of Indian Education, in 1998, the percentage of American Indian and Alaska Native students in grade four who were at or above the basic level in reading on the National Assessment for Educational Progress (NAEP) was 47 percent. The NAEP, also known as “the Nation’s Report Card,” is the only nationally representative, continuing assessment of student performance in various subject areas.



Crime

- Existing data suggests that tribes have between 55 and 75 percent of the law enforcement resource base available to non-Indian communities.
- The violent crime rate in Indian Country is approximately two to three times the national average.
- Few, if any, police departments in Indian Country have ratios of more than 2 officers per thousand residents. This is far below comparable communities with high violent crime rates. (*National Institute of Justice Journal*, January 2001)

Health

- The alcoholism rate for American Indians and Alaska Natives in the Indian Health Service (IHS) service area in 1995 was 627 percent greater than for the U.S. population as a whole.
- The tuberculosis rate for American Indians and Alaska Natives in the IHS service area in 1995 was 533 percent greater than for the U.S. population as a whole.
- The diabetes mellitus rate for American Indians and Alaska Natives in the IHS service area in 1995 was 249 percent greater than for the U.S. population as a whole.
- The suicide rate for American Indians and Alaska Natives in the IHS area in 1995 was 72 percent greater than for the U.S. population as a whole.

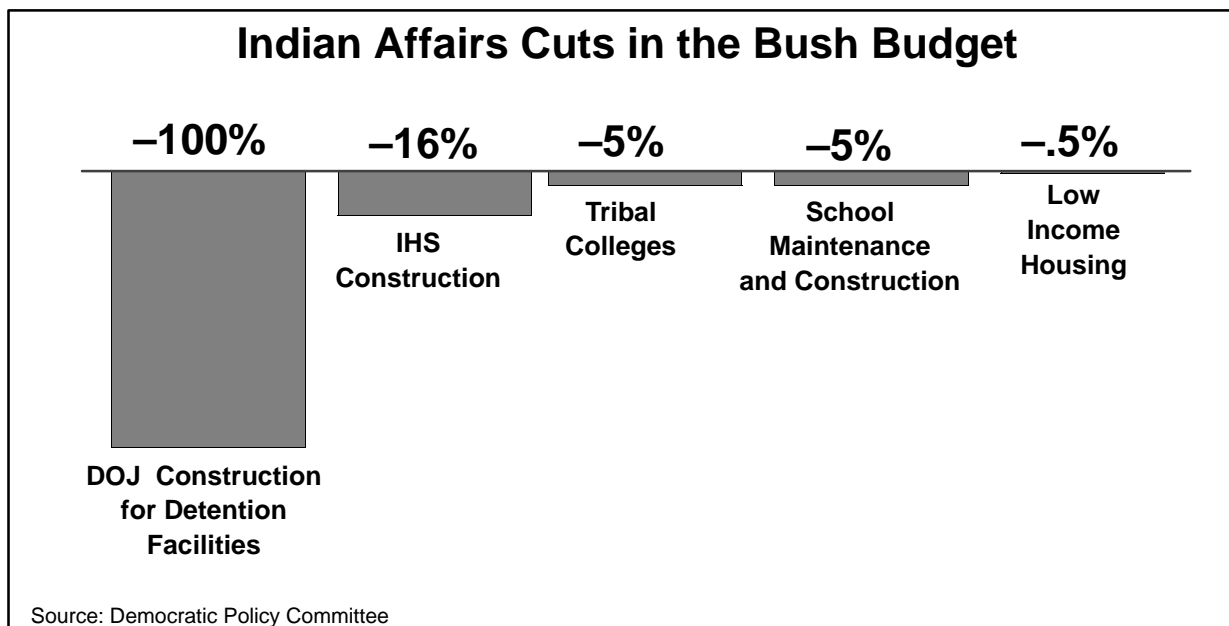
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The President's Budget

Democrats are very concerned about the budget for Indian Affairs released by President Bush on February 4, 2002. The President's budget inadequately funds several programs designed to improve access to health care, create affordable housing, construct new schools, and improve safety on reservations across the nation.

For example, the President's budget proposes:

- \$120 million for Native American school construction, and \$168 million for school maintenance and repairs – a \$15 million decrease from last year;
- \$39.1 million for 32 tribal colleges – a \$2 million decrease from last year;
- \$646.6 million for tribal housing authorities (in the budget for the Department of Housing and Urban Development) for the construction and maintenance of affordable, low-income housing – a \$3 million decrease from last year;
- a 16 percent decrease in funding for construction of Indian Health Service facilities, including clinics and ambulance shelters; and
- complete elimination of funding in the budget for the Department of Justice for the construction of detention facilities in Indian Country.



Homeland Defense

Prior to adjourning last December, Senate Democrats passed **S. 1765**, which authorized various programs for bioterrorism readiness. The bill authorized funding for tribal governments (as well as state and local governments) for bioterrorism preparedness and response. Democrats will continue to fight to include tribal governments and native communities in the dialogue on homeland defense in the wake of the September 11 attacks as the nation works to strengthen our domestic preparedness.

The Democratic Economic Recovery Package

The current recession is nothing new to Indian Country – in fact, slow economic growth and limited employment opportunities have been an unfortunate way of life for more than 100 years. Democrats believe that to provide long-term economic stimulus for Indian Country, the federal government must live up to its trust obligations to provide education, health care, critical infrastructure, and other essential services to Native Americans. Beyond that, the federal government should help promote economic development on Indian reservations by making sure Native American entrepreneurs and small business owners have the resources – and the capital – they need to act on their good ideas and create new jobs.

To address the immediate needs in Indian Country and across America, Democrats attempted to pass a short-term economic recovery package that provided comprehensive solutions to an economy in recession. In December of last year, Democrats proposed an economic stimulus plan that included a provision to allow for a one-year expansion of tax-exempt private activity bonds to be issued to qualified Indian tribal governments. These bonds, totaling up to \$10 million, would have provided tribal governments with resources to invest in housing, construction, and manufacturing, and support business operations in enterprise communities and empowerment zones.

Unfortunately, Republicans repeatedly stonewalled any attempts at a bipartisan compromise. Even after negotiations began and Democrats agreed to concessions, Republicans still refused to take up a stimulus package that would help working Americans — including Native Americans.

In a further attempt to reach consensus, Senator **Daschle** proposed a new, compromise recovery package on January 4, 2002. This plan would have provided additional rebate checks for Native Americans and others who did not receive a check last fall. It would also boost the the federal match to the Medicaid fund by \$5 billion providing more health care assistance to medically underserved citizens in Indian Country.

Unfortunately, after three weeks of consideration of the bill, a Republican filibuster of the **Daschle** “common ground” legislation killed this bipartisan attempt to pass a stimulus package on a procedural vote that showed strong majority support for the package, but did not attain the necessary 60 votes to end the filibuster.

The Democratic Farm Bill

On February 13, 2002, the Senate passed **S. 1731**, the *Agriculture, Conservation and Rural Enhancement Act of 2001*, to reauthorize the 1996 Farm Bill. **S. 1731** includes many items of importance to Native American communities. The Farm Bill would:

- change the *Consolidated Farm and Rural Development Act* to improve USDA farm lending programs by allowing the Secretary to waive the seven-year eligibility limitation on direct operating loans for Native American farm operations on tribal lands if the Secretary determines that commercial credit is not generally available for such options;
- re-authorize the Food Distribution on Indian Reservations Program;
- require the USDA to coordinate administration of the conservation programs to carry out education, outreach, monitoring, and evaluation under all conservation programs (it also requires USDA to resource and beginning farmers, ranchers and Indian tribes);
- require the USDA to provide Congress with a plan for coordinating conservation programs for better implementation and for delivering conservation programs for Indian tribes;
- authorize USDA to make telephone loans to state or local governments, Indian tribes, or other public entities for facilities and equipment to expand 911 access in underserved rural areas (the bill also ensures that the necessary appropriations to provide these loans will be made available to Tribes);
- provide an authorization of \$20 million a year for water and waste facility grants to benefit Native American tribes;
- extend the provision of Water Systems for Rural and Native Villages in Alaska until 2006;
- establish an Assistant Secretary of Agriculture for Civil Rights to serve as a single point of contact accountable for all civil rights issues at USDA – including issues involving Native Americans;
- authorize the Forest Service to provide financial, technical, educational and related assistance to tribes for consultation and coordination, conservation education and awareness, and acquisition of conservation interests; and
- include provisions to provide additional resources to strengthen the endowments, infrastructure, and research and equity grants of 1994 Land Grant Tribal colleges and institutions.

The Democratic Energy Bill

On December 5, Senate Majority Leader **Daschle** and Senator **Bingaman** introduced a comprehensive national energy policy bill, **S. 1766**, the *Energy Policy Act of 2002*. The bill contains an Indian energy title, Title IV, which would establish a comprehensive Indian energy program at the Department of Energy to assist tribes in meeting their energy needs and expanding opportunities for tribes to develop energy resources.

Title IV would authorize the creation of an Office of Indian Energy Policy and Programs within the Department of Energy to coordinate tribal energy policy, research and programs, and language establishing an Indian energy grant program.

Other provisions in the bill include language which would direct the Secretary to conduct reviews and report with recommendations to Congress on the oil and gas development activities conducted by tribes under the *Indian Mineral Development Act of 1982*, and direct the Secretary of Energy to conduct studies on energy consumption and renewable energy development potential on Indian lands. In addition, the extension and modification of the Section 45 Electricity Production Credit in **S. 1766** would provide a significant incentive for the production of renewable energy on Indian lands.

Welfare Reauthorization

As Congress prepares to reauthorize Temporary Assistance for Needy Families (TANF) within the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, Democrats have requested that the General Accounting Office (GAO) review the impact of welfare reauthorization on Native Americans.

Democrats have asked GAO to study:

- ways to make TANF work better for Tribes;
- ways to better enable Tribes who want to run TANF to take over the administration of their program;
- ways to ensure that Tribes which decide not to run TANF programs are treated fairly by states; and
- ways to promote economic opportunity on reservations.

Election Reform

The Senate is considering bipartisan legislation to reform the election process in the U.S. This legislation helps to ensure that the votes of all Americans, including Native Americans, count. For example, for Native Americans, special ballots would be provided if the Director of the Bureau of the Census determines that at least five percent of the total number of citizens of a reservation are voting-age Native American or Alaskan Native citizens who speak that language as their first language and who are limited-English proficient, and the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate.

Indian Health Care Improvement Act

The *Indian Health Care Improvement Act* (IHCIA) was enacted in 1976 “to implement the federal responsibility for the care and education of the Indian people by improving the service and facilities of federal Indian health programs and encouraging the participation of Indians in such programs.”

The Act was scheduled for reauthorization in September, 2000. Unfortunately, after a long consultation process with the Indian Health Service (IHS) and the creation of a National Steering Committee to provide tribally–drafted legislation to reauthorize the IHCIA, the Republican majority in the Senate blocked the reauthorization in the 106th Congress.

The proposed Act would have established a National Bipartisan Indian Health Care Entitlement Commission, which would have been charged with determining whether Native Americans should receive health care services as an entitlement in the same manner that those who are eligible for Social Security or Medicare receive these services as an entitlement. Democrats support the reauthorization of the IHCIA and will fight for its passage in the 107th Congress.

Native American Housing and Self Determination Act (NAHASDA)

The *Native American Housing Assistance and Self–Determination Act* (NAHASDA) became effective on October 2, 1996. Its primary purpose is to strengthen federal assistance programs for Native Americans. This Act, which authorizes the primary federal housing assistance program for Indian Country, expires on September 30, 2001.

During the reauthorization process, Democrats plan to address several problems with NAHASDA including the following:

- Current funding formulas are often inequitable to small tribes;
- NAHASDA requires full compliance with the *National Environmental Protection Act* (NEPA) and its regulations prior to any development. Tribes can either conduct their own reviews or have HUD perform the assessments. Any HUD review is dependent upon available funding, which often is not available. Funding and/or technical assistance should be available for these assessments; and
- Many tribes report that consultations with HUD are confusing. Changes should be made to ensure that HUD gives clear and concise advice to tribes concerning compliance with NAHASDA and tribes are an integral part of the consultation process pertaining to issues that directly affect them.